

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

November 7, 2012

Lyle W. Cayce  
Clerk

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No. 11-41296  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOE SANTANA,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:11-CR-784-1

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Before HIGGINBOTHAM, OWEN, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

As his sole issue on appeal, Joe Santana argues that his case should be remanded to the district court for the limited purpose of correcting the written judgment to reflect that he was convicted of a conspiracy to possess with intent to distribute 1,000 or more kilograms of marijuana, as charged in Count 1 of the indictment, rather than for “[p]ossession with intent to distribute, approximately 1430.51kilograms of marijuana.” The Government concurs that the error involved is clearly a clerical one which should be corrected under Federal Rule

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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of Criminal Procedure 36. The Government also notes that the written judgment does not reflect that Count 2 of the indictment was dismissed upon its motion. We have noted sua sponte that this court must remand for the purpose of correcting irregularities contained in the judgment. *United States v. Johnson*, 588 F.2d 961, 964 (5th Cir. 1979).

The case is REMANDED for the limited purpose of the entry of a corrected judgment reflecting that Santana was convicted of a conspiracy offense and that Count 2 was dismissed on the Government's motion.